Supreme Court, U.S.
FILED
OCT 16 2006

No. 06-536

IN THE OFFICE OF THE CLERK

SUPREME COURT OF THE UNITED STATES

In re: GYORGY FODOR

GYORGY FODOR

Petitioner,

v.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

Respondent,

TIME WARNER, INC.

Real Party in Interest.

On Petition For Writ of Mandamus to the

U.S. Court of Appeals for the Ninth Circuit

PETITION FOR WRIT OF MANDAMUS

Gyorgy Fodor

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QUESTIONS PRESENTED FOR REVIEW:

1.) Whether the Ninth Circuit Court of Appeals denial of Fodor's Petition for a Writ of Mandamus is in conflict with Federal law and/or decisions of different Circuit Court of Appeals?

2.) Whether Fodor's Petition for a Writ of Mandamus must have been granted by the Ninth Circuit Court of Appeals as a matter of right of Fodor when the District Court's Order denying Fodor's Motion to Disqualify the District court judge presiding over the case is void?

3.) Whether the Ninth Circuit Court of Appeals denial of Fodor's Petition for a Writ of Mandamus violated International Law?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is subject to this petition as follows:

Gyorgy Fodor; Petitioner,

Unites States District Court for the Central District of California; Respondent,

Time Warner, Inc.,

Warner Bros. Entertainment; Real Party in Interest.

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IN THE

SUPREME COURT

OF THE UNITED STATES

PETITION FOR WRIT OF MANDAMUS

Petitioner Gyorgy Fodor (hereinafter "Fodor") respectfully prays that a Writ of Mandamus issue to review the judgment below.

OPINIONS BELOW

The Order of the United States Court of Appeals for the Ninth Circuit appears at Appendix pages A-1 & A-2 to the Petition and is unpublished.

The Order of the United States District Court for the Central District of California appears as Appendix pages A-3 to A-9 and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals for the Ninth Circuit decided the above matter was May 30, 2006.

Motions for reconsideration, modification or clarification of the Order was prohibited by the Ninth Circuit Court of Appeals thus none was filed.

The jurisdiction of this court is invoked under 28 U.S.C. # 1651(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIFTH AMENDMENT, U.S. CONSTITUTION

No person shall be deprived life, liberty, or property without due process of law;

28 U.S.C # 455(b)(1) DISQUALIFICATION OF JUSTICE, JUDGE, OR MAGISTRATE JUDGE

(b) He shall disqualify himself in the following circumstances:

(1) Where he has personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding.

STATEMENT OF THE CASE

Fodor filed a Copyright Infringement and Unfair Competition lawsuit against Time Warner Inc. and others in 1990 alleging that the corporation stole and copied one of Fodor's movie scripts and breached a confidential business relationship by the same.

Time Warner Inc. defended the lawsuit by forging back-dated corporate documents and fabricated bogus checks and other banking instruments in order to defraud Fodor by claiming that Time Warner Inc. created their infringing work prior to Fodor's wrote his script, therefore, Fodor's lawsuit alleging copying is meritless and must be dismissed.

When Fodor discovered Time Warner Inc.'s criminal tactics U.S. District judge James M. Ideman, having found access and substantial similarity between Fodor's script, and Time Warner Inc's infringing work, denied Time Warner Inc.'s summary judgment motion and set the case for a jury trial.

Time Warner Inc. moved for reconsideration of judge Ideman's order and devised a scheme with the help of judge Ideman's law clerk(s), whereby Time Warner Inc. forged a series of court orders, and to make it appear that these orders were decided by judge Ideman, Time Warner Inc., in cahoots with the law clerk(s), forged the judge's signature on these orders by using the judge's rubber stamped facsimile signature. Then the law clerk(s) caused to file these bogus orders, including an order to dismiss with prejudice Fodor's lawsuit, and an order for attorney's fees of nearly $170.000.00 to be filed as genuine decisions of judge Ideman.

Fodor knew that these orders were forgeries, and simply ignored Time Warner Inc.'s corrupt, criminal attempts to collect the $170.000.00 in attorney's fees and went to the media to publicize this scandalous matter.

By 1994 Time Warner Inc. grew desperate and engaged private investigator Anthony Pellicano to illegally wiretap Fodor's phone(s).

Using information obtained through these illegal wiretappings, in 1994 Time Warner Inc. attempted to murder Fodor by creating a car accident to make it appear Fodor was victim of a drunk driving accident. Next, in 1995, Time Warner Inc. learned through the illegal wiretappings that Fodor and his children received a death from two drug dealers. Time Warner Inc. immediately relayed this information to U.S. District judge Ideman, who by 1995 was actively conspiring with Time Warner Inc. to cover-up widespread criminal misconduct that engulfed judge Ideman's courtroom. Judge Ideman immediately dispatched to Fodor's residence two U.S. marshals who looked like and acted like the two drug dealers who threatened Fodor's life. Time Warner Inc. and judge Ideman knew that Fodor was armed and ready to defend himself and his family in case the drug dealers attempted to carry out their death threats. Thus, Time Warner Inc. and U.S. District judge Ideman hoped that Fodor will get into a gun battle with the U.S. marshals in disguise, thinking that he's

facing the two drug dealers entering forcibly into his residence. One way or another, such confrontation would have resulted in Fodor's demise.

In 2001, Time Warner Inc. tried to blow-up Fodor's car on remote Mulholland Drive in Los Angeles, California by throwing the same or a similar type of hand grenade found in convicted felon, private investigator Anthony Pellicano's possession in retaliation for Fodor depicting on his popular website Time Warner Inc. CEO Gerald M. Levin as a "murderous crook".

In 2005, Time Warner Inc. bribed U.S. District judge Consuelo B. Marshall to secure a favorable ruling in a lawsuit brought by Fodor for the above-mentioned violation of Fodor's rights by Time Warner Inc. and others. In fact, to satisfy her bribers, judge Marshall corruptly falsified the court records in violation of 18 U.S.C. # 1001(a)(1) and (a)(3) to make it appear that Fodor's lawsuit was 8 days over the statute of limitations while in fact Fodor's lawsuit was filed months before the statute of limitation

would have expired.

In a subsequent lawsuit brought by Fodor, Time Warner Inc. and others corruptly conspired with judge Marshall to jail Fodor for criminal contempt for Fodor filing a lawsuit seeking damages for Time Warner Inc. bribing judge Marshall. This corrupt, unlawful scheme was designed, among other crimes, to prevent Fodor to file a timely appeal brief in his prior lawsuit, and to file a timely Writ of Mandamus seeking the disqualification of judge Marshall. This corrupt scheme was aided and abetted by U.S. District judge George Schiavelli who, in the absence of all jurisdiction, denied Fodor's 28 U.S.C. # 455 Motion seeking the disqualification of judge Marshall from presiding over the case in which she had personal knowledge of disputed evidentiary facts.

When these criminal tactics of Time Warner Inc. and others have failed, Time Warner Inc. corruptly influenced judge Marshall to Dismiss Fodor's lawsuit and to declare Fodor vexatious litigant in the absence of all jurisdiction while

Fodor's Writ of Mandamus filed with the Ninth Circuit Court of Appeals was still pending. In fact, judge Marshall, in retaliation for Fodor providing to the FBI and to the Ninth Circuit Court of Appeals information relating to the commission and/or the possible commission of Federal offenses, did dismiss Fodor's lawsuit and declared Fodor Vexatious Litigant in the absence of all jurisdiction, while Fodor's Petition for a Writ of Mandamus was still pending. This criminal conduct of judge Marshall violated 18 U.S.C. # 1506, 18 U.S.C. # 1513(b)(1), and International Law.

On April 28, 2006 Time Warner Inc. subsidiary Warner Bros. Entertainment assaulted Fodor by vandalizing his vehicle and sent a threatening message trying to intimidate and to persuade Fodor not purse further legal remedies. This blatant violation of Fodor's right was consistent with prior threats, attempted murder and intimidation orchestrated by Time Warner Inc.'s and/or their subsidiary, Warner Bros. Entertainment and others.

REASONS FOR GRANTING THE PETITION

1.) Granting of this writ will be in aid of this court's appellate jurisdiction.

Fodor cannot proceed with this lawsuit in the District court while Judge Marshall presiding over the case. Indeed, judge Marshall abused her judicial power when she endeavored to jail Fodor for criminal contempt for Fodor stating his lawful claims of Time Warner bribing judge Marshall to secure a favorable ruling. If Fodor is unable to argue his lawful claims in front of judge Marshall, and the case cannot proceed because of judge Marshall's obstructionist maneuvers, this court will not be able to exercise its appellate jurisdiction to review this case.

2.) Exceptional circumstances warrant the exercise of this Court's discretionary powers.

Fodor submits that the egregious conduct of judge Marshall, such as acceptance of bribes, the abuse of her judicial powers in order to silence Fodor and that the Ninth Circuit's

refusal to disqualify a corrupt, biased district judge from presiding over a case where allegations include the bribery of the judge by defendants in this case must be construed as exceptional circumstances warranting the exercise of this court's discretionary powers.

3.) Adequate relief cannot be obtained in any other form or from any other Court.

Filing a Writ of Mandamus with the Ninth Circuit Court of Appeals was the proper appellate procedure seeking the disqualification of a corrupt, biased District judge. The Ninth Circuit denied Fodor's Petition for a Writ of Mandamus and ordered Fodor not to file any motions for reconsideration, modification or clarification. Therefore, only this Court has the proper jurisdiction to review the Ninth Circuit's Order and provide adequate relief.

4.) The Ninth Circuit's Order denying Fodor's Petition for a Writ of Mandamus is in conflict with Federal Law.

28 U.S.C # 455(b)(1) mandates that the judge presiding over the case shall decide such motion

seeking his/her disqualification. Fodor filed his motion to disqualify judge Marshall because she was bribed by Time Warner Inc., in a prior case brought by Fodor Therefore, judge Marshall has personal knowledge of disputed material facts. Notwithstanding the requirement of Federal Law, Fodor's Section 455(b)(1) Motion was decided by U.S. District judge Schiavelli, who did not have jurisdiction to decide said motion, nor judge Schiavelli had the personal knowledge as to what personal knowledge judge Marshall had in regard to the issues raised in Fodor's Section 455 Motion. This unlawful act of the district court violated Fodor's rights to due process of law. Furthermore, Fodor does not have other adequate means such as direct appeal to attain the relief Fodor desires, ie. the disqualification of judge Marshall. Furthermore, Fodor is damaged in a way not correctable on appeal. Furthermore, the district court' order is procedurally erroneous as a matter of law. The district court's order is an oft repeated error, because pursuant to General Order 224, Section 4.2 Section 455 Motions are

routinely referred to judges other than the judge presiding over the case in violation of 28 U.S.C. # 455. Furthermore, the district court's order raises new and important problems inasmuch that a Section 455 Motion decided by a judge other than the judge presiding over the case denies the moving party's constitutionally guaranteed right to due process of law.

5.) Fodor's Petition for a Writ of Mandamus must be granted as a matter of right of Fodor.

It is well established that if a Court acts in the absence of all jurisdiction the Order of said court is void. "Courts frequently repeat that a judgment rendered by a court that was without jurisdiction over the subject matter is void" See: Moore's Federal Paractice 60.44[2][a] citing 2nd, 5th, 7th and 9th Circuit Court of Appeals cases. As discussed above, judge Schiavelli acted in the absence of subject matter jurisdiction in deciding Fodor's Section 455 motion. "If judgment is void, court has no discretion and must relief" See: Moore's Federal Practice at 60.44[5][a]

citing cases from the 1st, 5th, 7th and 9th Circuit Court of Appeals. Therefore, Fodor is entitled as a matter of right to the issuance of a Writ of Mandamus directing the district court to vacate judge Schiavelli's void, unlawful order denying Fodor's Section 455 motion.

Therefore, this Court must grant Fodor's Petition for a Writ of Mandamus as a matter of right of Fodor.

6.) The district court denial of Fodor's Section 455 Motion and the Ninth Circuit Court Appeals denial of Fodor's Petition for a Writ of Mandamus also violated International Law by denying Fodor's Human Rights to "access to mechanisms of justice and to prompt redress as provided for by national legislation for the harms Fodor have suffered".

See: Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power adopted by the U.N. General Assembly resolution 40/34 of 29 November 1985.

In the instant matter Fodor was forced by

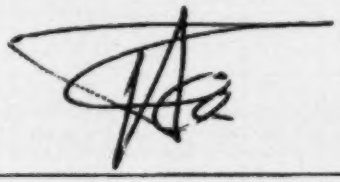
the district court and the Ninth Circuit Court of Appeals access to mechanisms of gross **injustice**. In fact, when judge Marshall, who was bribed by Time Warner Inc. to secure a favorable ruling is allowed to preside over this case; when it is O.K. for the Ninth Circuit to let judge Marshall abuse her judicial power and try to imprison Fodor for Fodor exercising his constitutionally guaranteed right to bring a lawsuit for Time Warner Inc. bribing judge Marshall, is not an access to mechanisms of justice, but an access to a fascist judicial dictatorship. If it is acceptable to this Court that judge Marshall retaliated against Fodor by declaring Fodor Vexatious Litigant in the absence of all jurisdiction, and foreclosing Fodor's access to federal courts, then judge Marshall conspiring with Time Warner Inc. to assault Fodor by vandalizing his car in a thinly veiled attempt to silence Fodor is O.K. as well, then Fodor will have no alternative but to file a Complaint for Human Rights violations with

International Human Rights Organizations.

CONCLUSION

The Petition for Writ of Mandamus must be granted.

Respectfully submitted by:



Gyorgy Fodor

Dated: OCT. 5, 2006

APPENDIX

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED MAY 30, 2006

CATHY A CATTERSON, CLERK

N0. 06-70852

D.C. No. CV-05-07349-CBM

Central District of California

Los Angeles

ORDER

In re: GYORGY FODOR

GYORGY FODOR

Petitioner

v.

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF

CALIFORNIA,

Respondent,

TIME WARNER, INC.,

real Party in Interest

Before: TALLMAN, CALLAHAN and BEA Circuit Judges.

Petitioner has not demonstrated that this case warrants the intervention of this court by

means of extraordinary remedy of mandamus. See Bauman v. United States Dist. Court 557 F.2d 650 (9th. Cir. 1977) Accordingly, the petition is denied. No motions for reconsideration, modification, or clarification of this order shall be filed or entertained.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

No. CV 05-7349 CBM (PJWx)

Filed Jan. 17, 2006

GYORGY FODOR

Plaintiff

v.

TIME WARNER INC.

WARNER BROS. ENTERTAINMENT

and DOES 1 THROUGH 10

Defendants

Tihs is Plaintiff gyorgy Fodor's ("Plaintiff') second motion to recuse Judge Consuelo B. Marshall. the first motion, brought pursuant to 28 U.S.C. # 144 was denied by judge George P. Schiavelli on January 3, 2006. On January 9, 2006, Plaintiff filed the instant motion for disqualification pursuant to 28 U.S.C. # 455. for the reason that follow, the motion is hereby DENIED.

I. Background

Plaintiff brings suit against defendants Time Warner Inc. and warner Bros. Entertainment

("Defendants") for copyright infringement. Plaintiff is a filmmaker from Hungary who claims the Defendants stole one of his scripts "in a breach of a confidential business relationship. Plaintiff began litigating this purported copyright claim in 1990. Since that time, Plaintiff has filed numerous complaints, motions, writs, and other pleadings all predicated on the same allegations that Defendants along with several judicial officiers have conspired to deprive Plaintiff of his copyright claim and have even attempted to murder him. This case stems from a previous action, Gyorgy Fodor v. Time Warner Inc. et al. CV 05-0470 CBM (PJWx). In that case, Plaintiff alleged that defendants conspired with district judge James m. Ideman to fraudulently issue decisions in Plaintiff's 1990 copyright lawsuit. The Court, the honorable judge Consuelo B. Marshall presiding dismissed the action with

prejudice noting that the allegations of forgery and falsification of court documents had already been litigated in a previous suit styled Gyorgy Fodor v. AOL time Warner Inc. et al,. CV 01-3803 CAS

One day after judge Marshall dismissed the case CV 05-0470, Plaintiff filed this action repeating the same conspiracy allegations. On October 18, 2005, this case was transferred to judge Marshall as being related to CV 05-0470. Thereafter, Plaintiff amended his complaint to allege that "Defendants corruptly influenced U.S. District judge Consuelo B. Marshall to obtain a favorable ruling from the judge... by maliciously bribing the judge over the proceeding." In light of this new allegation, judge Marshall treated the FAC as a possible motion to recuse. The matter then was transferred to judge Schiavelli for determination pursuant to General Order

224 and General order 194. The Court reviewed the FAC and concluded that it could be construed as a request for recusal. However, the Court ordered Plaintiff to file a formal motion if Plaintiff's intent was to seek recusal of judge Marshall.

On December 12, 2005 Plaintiff filed a recusal motion pursuant to 28 U.S.C. # 144. The Court denied the motion on January3, 2006, concluding that Plaintiff's bribery allegations were unsupported and, thus, provided no grounds for recusal. The matter was then ordered to proceed as originally assigned.

On January 9, 2006 Plaintiff filed a second recusal motion based on the same allegations of bribery. This second motion, brought under 28 U.S.C. # 455 was to judge Schiavelli per General Order 224, Section 4.2.

II. ANALYSIS

Pursuant to 28 U.S.C. # 455, a judge must

disqualify herself in "any proceeding in which [her] impartiality might be reasonably questioned." The standard for recusal under this section is whether "a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." Yagman v. People Ins. 987 F.2d 622 626 (9th Cir. 1993).

However, the Court notes that Section 455 contains no provision for the referral of the motion to another judge. Rather, the section clearly contemplates that decisions regarding recusal should be made by the judge presiding over the matter. In re Bernard, 31F,3d 842, 844 (9th Cir. 1994).

Nevertheless, the instant recusal motion was referred to this Court pursuant to General Order 224, Section 4.2, which states: If more than one motion to disqualify the same judge is made in the same case or in related or consolidated cases before the same judge, the assignment and transfer of all such motions subsequent to the first motion shall

be to the judge who determined the initial motion to disqualify.

In light of section 4.2, the Court has considered Plaintiff's motion and, again finds no basis for recusal. Plaintiff repeats his allegations that Defendants bribed Judge Marshall with respect to the previous case. Plaintiff then asserts that "Judge Marshall has personal knowledge of disputed facts concerning the proceeding and shall disqualify herself pursuant to 28 U.S.C. # 455(b)(1)." The Court, however, has already determined that the bribery allegations involving Judge Marshall are unsupported and conclusory. The instant motion, which is only two pages long, provides no grounds for the Court to reconsider its previous decision. Again, Plaintiff alleges no facts that calls into question Judge Marshall's impartiality with respect to this matter.

IV. CONCLUSION

For the foregoing reasons, Plaintiff's motion to disqualify judge Marshall is hereby DENIED

and the case id ordered to proceed as originally assigned pursuant to general Order 224 Section 4.0.

IT IS SO ORDERED.

Dated January 17, 2006

HON. GEORGE P. SCHIAVELLI

UNITED STATES DISTRICT JUDGE